

ERRATA

Mailed: May 9, 2023

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Cybot A/S

Serial No. 90044987

The following corrected version of the Board's May 1, 2023 decision in the above-captioned case indicates that the genericness refusal is affirmed under Section 23(c) of the Trademark Act, 15 U.S.C. §1091(c), on the Supplemental Register.

THIS OPINION IS NOT A
PRECEDENT OF THE TTAB

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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Cybot A/S

Serial No. 90044987

Nathan C. Lovette and M. David Galin of Tucker Ellis LLP,
for Cybot A/S.

Kim Teresa Moninghoff, Trademark Examining Attorney, Law Office 113,
Myriah Habeeb, Managing Attorney.

Before Cataldo, Wellington and Dunn,
Administrative Trademark Judges.

Opinion by Cataldo, Administrative Trademark Judge:

Applicant, Cybot A/S seeks registration of the proposed mark COOKIEBOT (in standard characters) identifying:

Software as a service (SAAS) services featuring software for monitoring and managing data collection and Internet usage tracking, for complying with privacy regulations regarding data collection and Internet usage tracking, and for user consent and permissions management regarding website access, data collection and Internet usage tracking in International Class 42.¹

¹ Application Serial No. 90044987 was filed on July 9, 2020, seeking registration under section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a), claiming first use and first use in commerce at least as early as August 5, 2015 in connection with the services. Applicant

The Trademark Examining Attorney issued a final refusal of registration on the following grounds:

- 1) the proposed mark is generic under Trademark Act Section 23(c), 15 U.S.C. §1091(c) on the Supplemental Register, and Trademark Act Sections 1, 2, 3 and 45, 15 U.S.C. §§ 1051, 1052, 1053 and 1127 on the Principal Register; and
- 2) if found to be not generic, the proposed mark is merely descriptive under Trademark Act Section 2(e)(1), 15 U.S.C. § 1052(e)(1), with an insufficient showing of acquired distinctiveness under Trademark Act Section 2(f), 15 U.S.C. §1052(f).

Applicant timely appealed and submitted a request for reconsideration. The appeal is fully briefed.

We affirm the genericness refusal and the Examining Attorney's determination that Applicant's proposed mark is merely descriptive under Section 2(e)(1) and its showing under Section 2(f) is insufficient to establish acquired distinctiveness.

I. Evidentiary Matter

Applicant embedded several pages of evidence in the body of its appeal brief.² To the extent this evidence is duplicative of evidence previously submitted during

amended its application to seek registration on the Supplemental Register in the alternative, in its October 29, 2021 Request for Reconsideration at TSDR 17, in the event its arguments and showing of acquired distinctiveness failed to traverse the mere descriptiveness refusal. *See also* November 5, 2021 Office Action at TSDR 2.

² 6 TTABVUE 6-13. (Applicant's brief). Page references to the application record refer to the online database of the USPTO's Trademark Status & Document Retrieval ("TSDR") system. All citations to

prosecution, we need not and do not give this redundant evidence any consideration. Any of the evidence submitted with Applicant's appeal brief that was not previously submitted during prosecution is untimely and will not be considered.³

Parties to Board cases occasionally seem to be under the impression that attaching previously-filed evidence to a brief and citing to the attachments, rather than to the original submission is a courtesy or a convenience to the Board. It is neither. When considering a case for final disposition, the entire record is readily available to the panel. Because we must determine whether such attachments are properly of record, citation to the attachment requires examination of the attachment and then an attempt to locate the same evidence in the record developed during the prosecution of the application, requiring more time and effort than would have been necessary if citations directly to the prosecution history were provided.

In re Michalko, 110 USPQ2d 1949, 1950-51 (TTAB 2014). Trademark Rule 2.142(b)(3), 37 C.F.R. § 2.142(b)(3); *In re Virtual Independent Paralegals, LLC*, 2019 USPQ2d 111512, at *1 (TTAB 2019) (best way to cite evidence is "to refer to it by Office Action/Response date and TSDR page number").

II. Genericness

A generic term "is the common descriptive name of a class of goods or services." *Princeton Vanguard, LLC v. Frito-Lay N. Am., Inc.*, 786 F.3d 960, 114 USPQ2d 1827, 1830 (Fed. Cir. 2015) (quoting *H. Marvin Ginn Corp. v. Int'l Ass'n of Fire Chiefs, Inc.*,

documents contained in the TSDR database are to the downloadable .pdf versions of the documents in the USPTO TSDR Case Viewer.

TTABVUE references refer to the Board's docket system.

³ The proper procedure for an applicant or examining attorney to introduce evidence after an appeal has been filed is to submit a written request with the Board with a showing of good cause to suspend the appeal and remand the application for further examination. See Trademark Rule 2.142(d), 37 C.F.R. § 2.142(d) ("The record in the application should be complete prior to the filing of an appeal. Evidence should not be filed with the Board after the filing of a notice of appeal."); see also TBMP § 1207.02 and authorities cited therein.

782 F.2d 987, 228 USPQ 528, 530 (Fed. Cir. 1986)); *see also USPTO v. Booking.com B.V.*, 140 S. Ct. 2298, 2020 USPQ2d 10729, *1 (2020).

Any term that the relevant public uses or understands to refer to the genus of goods or services, or a key aspect or central focus or subcategory of the genus, is generic. *Royal Crown Co., Inc. v. The Coca-Cola Co.*, 892 F.3d 1358, 127 USPQ2d 1041, 1046-1047 (Fed. Cir. 2018). “[A] term is generic if the relevant public understands the term to refer to part of the claimed genus of goods or services, even if the public does not understand the term to refer to the broad genus as a whole.” *In re Cordua Rests.*, 823 F.3d 594, 118 USPQ2d 1632, 1638 (Fed. Cir. 2016) (holding CHURRASCOS, a word that is generic for a type of grilled meat, to be generic for restaurant services because it referred to a key aspect of those services); *see also In re Hotels.com LP*, 573 F.3d 1300, 91 USPQ2d 1532, 1535 (Fed. Cir. 2009) (“hotels” identified the “central focus” of online lodging information and reservation services and therefore HOTELS.COM found generic).

Because generic terms “are by definition incapable of indicating a particular source of the goods or services,” they cannot be registered as trademarks. *Id.* (quoting *In re Dial-A-Mattress Operating Corp.*, 240 F.3d 1341, 57 USPQ2d 1807, 1810 (Fed. Cir. 2001)). “The critical issue in genericness cases is whether members of the relevant public primarily use or understand the term sought to be protected to refer to the genus of goods or services in question.” *Id.* (quoting *Marvin Ginn*, 228 USPQ at 530).

Making this determination “involves a two-step inquiry: First, what is the genus of goods or services at issue? Second, is the term sought to be registered ... understood by the relevant public primarily to refer to that genus of goods or services?” *Marvin Ginn*, 228 USPQ at 530. *See also Princeton Vanguard*, 114 USPQ2d at 1829 (“there is only one legal standard for genericness: the two-part test set forth in *Marvin Ginn*”). “An inquiry into the public’s understanding of a mark requires consideration of the mark as a whole.” *Id.* at 1831 (quoting *In re Steelbuilding.com*, 415 F.3d 1293, 75 USPQ2d 1420, 1421 (Fed. Cir. 2005)). *See also Booking.com*, 2020 USPQ2d 10729, at *5 (“whether ‘Booking.com’ is generic turns on whether that term, taken as a whole, signifies to consumers the class of online hotel reservation services”).

A term may be generic if it refers to part of the claimed genus of services. *Cordua Rests.*, 118 USPQ2d at 1638 states:

[A] term is generic if the relevant public understands the term to refer to part of the claimed genus of goods or services, even if the public does not understand the term to refer to the broad genus as a whole. Thus, the term “pizzeria” would be generic for restaurant services, even though the public understands the term to refer to a particular sub-group or type of restaurant rather than to all restaurants. *See, e.g., Northland Aluminum*, 777 F.2d at 1561⁴ (affirming the TTAB’s determination that BUNDT is generic “for a type of ring cake”); *In re Analog Devices, Inc.*, 6 USPQ2d 1808, 1810, 1988 WL 252496, at *3 (TTAB 1988) (“There is no logical reason to treat differently a term that is generic of a category or class of products where some but not all of the goods identified in an application fall within that category.”), *aff’d*, 871 F.2d 1097 (Fed. Cir. 1989) (unpublished); *see also Otokoyama Co., Ltd. v. Wine of Japan Imp., Inc.*, 175 F.3d 266, 271 (2d Cir.1999) (“Generic words for sub-classifications or varieties of a good are [] ineligible for trademark protection.”). ... A “term need not

⁴ *In re Northland Aluminum Prods., Inc.*, 777 F.2d 1556, 227 USPQ 961 (Fed. Cir. 1985).

refer to an entire broad species, like ‘cheese’ or ‘cake,’ in order to be found generic.” 1–2 Anne Gilson LaLonde, *Gilson on Trademarks* § 2.02[7][a] (2011).

In an ex parte appeal, the USPTO has the burden of establishing that a mark is generic and, thus, unregistrable. *In re Hotels.com*, 91 USPQ2d 1532 at 1533; *In re Gould Paper Corp.*, 834 F.2d 1017, 5 USPQ2d 1110, 1111 (Fed. Cir. 1987); *In re Merrill Lynch, Pierce, Fenner and Smith, Inc.*, 828 F.2d 1567, 4 USPQ2d 1141 (Fed. Cir. 1987).

a. The Genus of the Services

“[O]ur first task is to determine, based upon the evidence of record, the genus of Applicant’s [services]” *In re ActiveVideo Networks, Inc.*, 111 USPQ2d 1581, 1600 (TTAB 2014). Because the identification of goods or services in an application defines the scope of rights that will be accorded the owner of any resulting registration under Section 7(b) of the Trademark Act, generally “a proper genericness inquiry focuses on the description of services set forth in the [application or] certificate of registration.” *Magic Wand Inc. V. RDB Inc.*, 940 F.2d 638, 19 USPQ2d 1551, 1552 (Fed. Cir. 1991), citing *Octocom Sys., Inc. v. Houston Comput. Servs., Inc.*, 918 F.2d 937, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990); see also *In re Reed Elsevier Prop. Inc.*, 482 F.3d 1376, 82 USPQ2d 1378, 1380 (Fed. Cir. 2007); *In re Serial Podcast, LLC*, 126 USPQ2d 1061, 1063 (TTAB 2018).

Applicant argues that “Regarding the genus of the services, the common or class name for the services that are offered under the Mark is a consent management

platform (CMP).”⁵ Applicant further argues that its proposed mark is co-branded with the term consent management platform or (CMP), and its use of “‘CMP’ or ‘Consent Management Platform’ in conjunction with the Mark is necessary to convey, to the public, the common name or class name in which the Mark is related.”⁶ The Examining Attorney argues that the recitation of services adequately defines the genus of services at issue, and acknowledges that consent management platform or CMP “also adequately (and more succinctly than the identification) defines the genus at issue.”⁷

A “distillation of a complicated or lengthy description of goods/services into a clear, more succinct genus greatly facilitates the determination of whether a term is generic.” *See In re Empire Tech. Dev. LLC*, 123 USPQ2d 1544, 1548 (TTAB 2017) (quoting *In re ActiveVideo Networks, Inc.*, 111 USPQ2d 1581, 1600 (TTAB 2014)). However, in this case we find the recitation of services to be neither so lengthy nor so complicated to require its distillation into a clearer genus for purposes of our determination. We thus find that the identification of services adequately defines the genus of services at issue.

b. The Relevant Purchasers of Applicant’s Services

The second part of the *Marvin Ginn* test is whether the term sought to be registered is understood by the relevant public primarily to refer to the genus of services under consideration. “The relevant public for a genericness determination is

⁵ 6 TTABVUE 20.

⁶ 6 TTABVUE 21.

⁷ 8 TTABVUE 5 (Examining Attorney’s brief).

the purchasing or consuming public for the identified goods [and services].” *Princeton Vanguard, LLC*, 124 USPQ2d at 1187 (citing *Magic Wand*, 19 USPQ2d at 1553); *Sheetz of Del., Inc. v. Doctor’s Assocs. Inc.*, 108 USPQ2d 1341, 1351 (TTAB 2013). Based on the recitation of services, we find that the consuming public of Applicant’s software as a service (SAAS) services featuring software for monitoring, managing, complying with privacy regulations and user consent and permission management, all in the field of website access, data collection and Internet usage tracking, is website owners and those who visit websites.

c. The Relevant Purchasing Public’s Understanding of COOKIEBOT

We next turn to consider whether COOKIEBOT is understood by the relevant public primarily to refer to:

Software as a service (SAAS) services featuring software for monitoring and managing data collection and Internet usage tracking, for complying with privacy regulations regarding data collection and Internet usage tracking, and for user consent and permissions management regarding website access, data collection and Internet usage tracking.

“Evidence of the public’s understanding of the term may be obtained from any competent source, such as purchaser testimony, consumer surveys, listings in dictionaries, trade journals, newspapers and other publications.” *Royal Crown*, 127 USPQ2d at 1046 (citing *In re Merrill Lynch*, 4 USPQ2d at 1143); *see also In re Cordua Rests.*, 118 USPQ2d at 1634); *Princeton Vanguard*, 114 USPQ2d at 1830; *In re Reed Elsevier*, 82 USPQ2d at 1380 (finding third-party websites competent sources for determining what the relevant public understands mark to mean).

Samples from the evidence of record which corroborate the evidence cited below are attached as an appendix to this decision.

d. Meaning of “COOKIEBOT”

Determining whether a term is generic is fact intensive and depends on the record. *See In re Tennis Indus. Ass’n*, 102 USPQ2d 1671, 1680 (TTAB 2012); *see also Royal Crown v. Coca-Cola Co.*, 127 USPQ2d at 1044 (“Whether an asserted mark is generic or descriptive is a question of fact” based on the entire evidentiary record). As noted above, we must give due consideration to the evidence of consumer perception of the use of the proposed mark as a whole. *Princeton Vanguard*, 114 USPQ2d at 1831 (quoting *In re Steelbuilding.com*, 75 USPQ2d at 1421 (“An inquiry into the public’s understanding of a mark requires consideration of the mark as a whole. Even if each of the constituent words in a combination mark is generic, the combination is not generic unless the entire formulation does not add any meaning to the otherwise generic mark.”)).

Based upon the evidence appended below, we find that COOKIE may be defined as a file stored on the local computer of an Internet user containing information used by the website to, inter alia, record, track and collect data regarding the user’s browsing habits. A COOKIE stores information on a user’s web browser and compiles records of users’ browsing histories. BOT may be defined as a computer program that automates mundane tasks, even when the user is not logged in, acting as an agent for a user or program and may simulate human activity. A BOT may perform useful tasks such as facilitating online chat, shopping, gaming, monitoring social media or

performing searches, or harmful activities such as hacking, spamming, scraping information from user accounts or impersonating users.⁸ Combined together, COOKIEBOT may be defined as a computer program that automates various activities related to the collection, monitoring and management of data concerning Internet usage by an individual.

It further is undisputed on this record that consumers of Applicant's services as well as media outlets and commentators in the field of online access and data collection recognize this meaning of Applicant's proposed mark:

- “While only some of the Zendesk products include pre-built Cookie consent-management solutions, all non-essential End-User Cookies are capable of being controlled by a standard javascript Cookie bot that Subscribers can configure to their own standards. To learn more about implementing a Cookie bot within your help center, review the following article.
- “Web Widget offers pre-built API functionality for cookie consent; see here: Web Widget Cookie Permission in Developer Center. Alternatively, these Cookies respect external cookie bot functionality as well.”
- “Do you know if your favorite websites are tracking you with cookies? If you answered in the negative, you might want to try a cookie bot. Cookie bots are essentially code-scanning web applets (mini-applications) that sift through lines of HTML code to gain insights into what cookies are used by

⁸ We recognize that these terms have other meanings in different contexts. However, we are only concerned with the meanings applicable to the identified services. That a term may have other meanings in different contexts is not controlling. *In re Bright-Crest, Ltd.*, 204 USPQ 591, 593 (TTAB 1979).

the websites you visit. The bots record the details and present the findings in digested format.”

- “What is a Cookie bot? For these reasons, you might want to try Cookie Script’s free cookie bot tool, so you know exactly what type of cookies are being used by the websites you visit.”
- “Why You Should Run a Cookie bot. A cookie bot tool allows you to see what types of cookies a website stores and tracks on your computer. (Not to mention, how they might be using your data.) How it works: To scan a website for cookies, simply enter its URL (website address) into the search bar on cookie-script.com. Click ‘CHECK MY WEBSITE’ and our cookie bot will scan the website to determine which types of cookies are in use by the website’s owners.”
- “On 25th May 2011, the Privacy and Electronic Communications Regulations (2011) were introduced to comply with rules set by the EU in 2009 regarding cookies and storing data. To summarize, this law means that the user has to give their consent for cookies to be used on a website, and they must be able to see exactly what will be stored and how it will be used. This means that you must use a cookie bot to ensure that you are complying with the law, and have a section in your privacy policy to explain how cookies are used on your website. We add cookie bots to our websites

to ensure that they comply with laws and legislations. The cookie bots are built into our sites, and included in our website care plans.”⁹

- “We use cookies on the Website. We do this in accordance with the GDPR. In particular, we must inform you about certain cookies and also ask permission to use them. We satisfy these requirements through a ‘cookie bot.’” Just like other websites, we make use of cookies on ours. These cookies enable our websites or platforms to function correctly or measure how visitors like you use them. Our cookie bot is also very convenient to help you make your choices.”

While Applicant seeks registration of the compound term COOKIEBOT and the evidence demonstrates the public recognition of the term COOKIE BOT, we find the absence of the space does not alter the relevant public’s perception. *See In re Empire Tech. Dev. LLC*, 123 USPQ2d 1544, 1559 (TTAB 2017) (evidence that displayed the term “coffee flour” in compressed form as “CoffeeFlour” irrelevant to genericness analysis); *In re Noon Hour Food Prods. Inc.*, 88 USPQ2d 1172, 1173 n.2 (TTAB 2008) (“Certainly an upper-case letter or the addition of a hyphen (or a space) cannot obviate the statutory bar to registration of a generic designation any more than can

⁹ We recognize this article, and others submitted by Applicant and the Examining Attorney, discuss regulations including the General Data Privacy Regulation (GDPR) promulgated in the European Union and certain of these articles appear on foreign websites. The Federal Circuit has explained that “[i]nformation originating on foreign websites or in foreign news publications that are accessible to the United States public may be relevant to discern United States consumer impression of a proposed mark.” *In re Bayer Aktiengesellschaft*, 488 F.3d 960, 82 USPQ2d 1828, 1835 (Fed. Cir. 2007). Thus, we have considered these articles. *See also In re Remacle*, 66 USPQ2d 1222, 1224 n.5 (TTAB 2002).

a slight misspelling of such a term.”); *Weiss Noodle Co. v. Golden Cracknel and Specialty Co.*, 290 F.2d 845, 129 USPQ 411, 414 (CCPA 1961) (Term “HA-LUSH-KA” held to be the generic equivalent of the Hungarian word “haluska”).

Applicant asserts that its proposed mark “is routinely described in conjunction with the generic terms ‘CMP’ or ‘Consent Management Platform’”¹⁰ ... and “If the Mark were to refer primarily to the genus [of] services, the use of ‘CMP’ or ‘Consent Management Platform’ in conjunction with the Mark would be entirely redundant and unnecessary.”¹¹ Applicant essentially argues that consent management platform or CMP is the generic term for its services, rather than its proposed mark. However, there can be more than one generic term for a genus of goods or services. “Any term that the relevant public understands to refer to the genus can be generic.” *Royal Crown Co. v. Coca-Cola Co.*, 892 F.3d 1358, 127 USPQ2d 1041, 1046 (Fed. Cir. 2018), quoting *In re Cordua Rests., Inc.*, 118 USPQ2d at 1637 (Fed. Cir. 2016). In other words, there is nothing preventing the purchasing public from perceiving both COOKIEBOT and Consent Management Platform or CMP as a generic term for the genus of Applicant’s services. Applicant cites to no authority for its apparent position that its display of its proposed mark with additional generic terms for its services makes it less likely consumers will perceive COOKIEBOT as a generic term for its services.

In addition, Applicant’s reliance upon prior decisions from this tribunal and the Federal Circuit regarding the registrability of unrelated marks is inapposite. As is

¹⁰ 6 TTABVUE 21.

¹¹ 6 TTABVUE 21.

often noted by the Board and the Courts, each case must be decided on its own merits and we are not bound by decisions in matters involving different marks and different evidentiary records. *See In re Nett Designs, Inc.*, 236 F.3d 1339, 57 USPQ2d 1564, 1566 (Fed. Cir. 2001); *see also In re Kent-Gamebore Corp.*, 59 USPQ2d 1373 (TTAB 2001); *In re Wilson*, 57 USPQ2d at 1871. Also, “the Board is not bound by prior decisions of Trademark Examining Attorneys, and ... each case must be decided on its own merits and on the basis of its own record, in accordance with relevant statutory, regulatory and decisional authority.” *In re Nett Designs, Inc.*, 57 USPQ2d at 1567; *see also In re Wilson*, 57 USPQ2d 1863, 1871 (TTAB 2001).

After carefully considering all of the arguments and evidence of record, we find that the relevant public understands the term COOKIEBOT as a common descriptive name for the genus of software as a service for monitoring and managing data collection and Internet usage, user and permissions management regarding website access, data collection and Internet usage tracking, and that the proposed mark is generic. *See In re Cordua Rests.*, 118 USPQ2d at 1638; *Marvin Ginn*, 228 USPQ at 530. Because the proposed mark COOKIEBOT generic when used in connection with the services identified in the application, it not registrable on the Principal Register and also incapable of registration on the Supplemental Register.

III. Mere Descriptiveness

We next address the refusal under Section 2(e)(1), precluding registration of “a mark which, (1) when used on or in connection with the goods [or services] of the applicant is merely descriptive . . . of them.” A term is “merely descriptive if it

immediately conveys information concerning a quality, characteristic, feature, function, purpose or use” of the goods or services. *In re Chamber of Commerce of the U.S.*, 675 F.3d 1297, 102 USPQ2d 1217, 1219 (Fed. Cir. 2017) (quoting *In re Bayer AG*, 488 F.3d 960, 82 USPQ2d 1828, 1831 (Fed. Cir. 2007)); *In re Omniome, Inc.*, 2020 USPQ2d 3222, at *3 (TTAB 2020) (quoting *In re N.C. Lottery*, 866 F.3d 1363, 123 USPQ2d 1707, 1709 (Fed. Cir. 2017)); *In re TriVita, Inc.*, 783 F.3d 872, 114 USPQ2d 1574, 1575 (Fed. Cir. 2015).

Descriptiveness must be assessed “in relation to the goods [or services] for which registration is sought, the context in which it is being used, and the possible significance that the term would have to the average purchaser of the goods [or services] because of the manner of its use or intended use.” *Bayer AG*, 82 USPQ2d at 1831 (citing *In re Abcor Dev.*, 588 F.2d 811, 200 USPQ 215, 218 (CCPA 1978)). We must also address the degree of descriptiveness because that bears on the quantity and quality of evidence required to prove acquired distinctiveness, which we discuss below. *See Royal Crown*, 127 USPQ2d at 1045 (instructing Board to first determine whether a proposed mark is highly descriptive rather than merely descriptive before assessing acquired distinctiveness); *Real Foods Pty Ltd. v. Frito-Lay N. Am., Inc.*, 906 F.3d 965, 128 USPQ2d 1370, 1378 (Fed. Cir. 2018) (same).

We find the proposed COOKIEBOT mark highly descriptive in view of the entire record and for the reasons set out above in the genericness discussion. The clarity, quality and quantity of the Examining Attorney’s evidence persuades us that a mental leap is not needed to determine that the proposed mark refers to Applicant’s

identified services. Because of the proposed mark's highly descriptive nature, Applicant has a higher burden to establish acquired distinctiveness. *In re Guaranteed Rate, Inc.*, 2020 USPQ2d 10869, *4 (TTAB 2020).

IV. Acquired Distinctiveness

Applicant claims acquired distinctiveness in the alternative under Section 2(f). For the sake of completeness, we consider whether Applicant's asserted mark has acquired distinctiveness based on the entire record, keeping in mind that "[t]he applicant ... bears the burden of proving acquired distinctiveness." *In re La. Fish Fry Prods., Ltd.*, 797 F.3d 1332, 116 USPQ2d 1262, 1264 (Fed. Cir. 2015) (citation omitted).

Because we have found the proposed mark highly descriptive of the identified services, Applicant's burden of establishing a prima facie case of acquired distinctiveness under Section 2(f) is commensurately high. *In re Sausser Summers, PC*, 2021 USPQ2d 618, at *7 (TTAB 2021) (quoting *Royal Crown*, 127 USPQ2d at 1048) ("[T]he greater the degree of descriptiveness the term has, the heavier the burden to prove it has attained secondary meaning."); *GJ & AM*, 2021 USPQ2d 617, at *37-38 ("Highly descriptive terms, for example, are less likely to be perceived as trademarks and more likely to be useful to competing sellers than are less descriptive terms. More substantial evidence of acquired distinctiveness thus will ordinarily be required to establish that such terms truly function as source indicators."); *Virtual Independent Paralegals, LLC*, 2019 USPQ2d 111512, at *10 (TTAB 2019) ("[T]he greater the degree of descriptiveness, the greater the evidentiary burden on the user

to establish acquired distinctiveness.”) (quoting *In re Greenliant Sys. Ltd.*, 97 USPQ2d 1078, 1085 (TTAB 2010).

“To establish acquired distinctiveness, an applicant must demonstrate that relevant consumers perceive the subject matter sought to be registered as identifying the producer or source of the product.” *GJ & AM*, 2021 USPQ2d 617, at *38 (citing *Wal-Mart Stores, Inc. v. Samara Bros., Inc.*, 529 U.S. 205, 54 USPQ2d 1065, 1068 (2000) and *Stuart Spector Designs Ltd. v. Fender Musical Instruments Corp.*, 94 USPQ2d 1549, 1554 (TTAB 2009)); *see also Uman Diagnostics*, 2023 USPQ2d 191, at *37 (“[T]o be placed on the principal register, descriptive terms must achieve significance ‘in the minds of the public’ as identifying the applicant’s goods or services – a quality called acquired distinctiveness’ ...” (quoting *Booking.com*, 2020 USPQ2d 10729, at *3). “Applicant may show acquired distinctiveness by direct or circumstantial evidence.” *GJ & AM*, 2021 USPQ2d 617, at *38-39 (“Direct evidence includes actual testimony, declarations or surveys of consumers as to their state of mind. Circumstantial evidence, on the other hand, is evidence from which we may infer a consumer association, such as years of use, prior registrations, extensive amount of sales and advertising, unsolicited media coverage, and any similar evidence showing wide exposure of the mark to consumers.”).

We consider the following factors: (1) association of the proposed mark with a particular source by actual purchasers (typically measured by customer surveys); (2) length, degree, and exclusivity of use; (3) amount and manner of advertising; (4) amount of sales and number of customers; (5) intentional copying; and (6) unsolicited

media coverage of the product embodying the mark. *Converse, Inc. v. Int'l Trade Comm'n*, 909 F.3d 1110, 128 USPQ2d 1538, 1546 (Fed. Cir. 2018); *GJ & AM*, 2021 USPQ2d 617, at *39 (acknowledging the six factors the Federal Circuit has identified “to consider in assessing whether a mark has acquired distinctiveness”).

We consider all of the Section 2(f) evidence of record as a whole; no single factor is determinative. *Converse*, 128 USPQ2d at 1546 (“All six factors are to be weighed together in determining the existence of secondary meaning.”); *Sausser Summers*, 2021 USPQ2d 618, at *7 (“All six factors are to be weighed together in determining the existence of secondary meaning.”) (quoting *In re Guaranteed Rate Inc.*, 2020 USPQ2d 10869, at *3 (TTAB 2020)); *GJ & AM*, 2021 USPQ2d 617, at *39 (“On this list, no single fact is determinative [a]ll six factors are to be weighed together in determining the existence of secondary meaning.”).

Applicant relies on its declaration which includes the following in support of its Section 2(f) claim:

If Applicant’s arguments above in regard to the merely descriptive refusal are not convincing to the Examining Attorney, Applicant further contends that the Mark has acquired distinctiveness at least under 15 U.S.C. § 1052(f) by way of 5 years of continuous use, since August 2015.

Applicant formally submits that:

The Mark has become distinctive of the goods/services through Applicant’s substantially exclusive and continuous use of the Mark in commerce that the U.S. Congress may lawfully regulate for at least the five years immediately before the date of this statement.

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¹² October 29, 2021 Request for Reconsideration at TSDR 17.

1. Factor One: Association of the proposed mark with a particular source by actual purchasers (typically measured by customer surveys)

Applicant has not submitted any surveys or other direct evidence by which we may assess the association of its proposed mark with a particular source by actual purchasers. Nor does any of Applicant's proffered evidence establish an association of COOKIEBOT with a particular source on the part of actual consumers.¹³

2. Factor Two: Length, Degree, and Exclusivity of Use

Under factor two, Applicant's declaration indicates use of the proposed mark since August 2015 in U.S. commerce in connection with the identified services.

"While 'it is true that evidence of substantially exclusive use for a period of five years immediately preceding the filing of an application may be considered prima facie evidence of acquired distinctiveness' under Section 2(f), *In re Ennco Display Sys., Inc.*, 56 USPQ2d 1279, 1286 (TTAB 2000), the language of the statute is permissive, and the weight to be accorded this kind of evidence depends on the facts and circumstances of the particular case.'" *In re Uman Diagnostics AB*, 2023 USPQ2d 191, at *41 (TTAB 2023) (citing *Yamaha Int'l Corp.*, 6 USPQ2d at 1004).

Here, evidence of Applicant's substantially exclusive use since August 2015 is not particularly persuasive on the Section 2(f) showing given the high degree of descriptiveness of the proposed mark. *Uman Diagnostics*, 2023 USPQ2d 191, at *41 ("We have discretion to find that evidence of a period of use is insufficient to show acquired distinctiveness, and we do so here because of the highly descriptive nature

¹³ Applicant's evidence largely consists of webpages discussing consent management platforms or CMPs, and examples from Applicant's website that do not support its claim of acquired distinctiveness.

of Applicant's proposed mark."); *In re MK Diamond Prods., Inc.*, 2020 USPQ2d 10882, at *20 (TTAB 2020) ("Where, as here, the applied-for mark is highly descriptive or non-distinctive, use for a period of approximately fourteen years is insufficient to establish acquired distinctiveness."); *Nextel Commc'ns, Inc. v. Motorola, Inc.*, 91 USPQ2d 1393, 1401 (TTAB 2009) ("Even long periods of substantially exclusive use may not be sufficient to demonstrate acquired distinctiveness" depending "on the degree of acquired distinctiveness of the mark at issue."). Moreover, as cited earlier in this decision, the record shows that public does not encounter COOKIEBOT exclusively through Applicant but through several third parties.

3. Factor Three: Amount and Manner of Advertising

Applicant has not disclosed its advertising expenditures or indicated any context of activities and expenditures of other providers of related services. There also is no evidence regarding the number of advertisements Applicant has run, how long Applicant has promoted its services, or US consumer exposure to Applicant's advertising. See Trademark Rule 2.41(a)(3) ("advertising expenditures ... identifying types of media and attaching typical advertisements" pertinent to whether a proposed mark has acquired distinctiveness") (emphasis added); *Booking.com v. Matal*, 278 F. Supp. 3d. 891, 919 (E.D. Va. 2017) (finding "compelling" evidence that applicant's "BOOKING.COM branded television commercials ... received 1.3 billion visual impressions from U.S. consumers in 2015 and 1.1 billion impressions in 2016. Its internet advertisements during these years received 212 million and 1.34 billion visual impressions from U.S. customers, respectively. And its 2015 movie theater

advertisements received approximately 40 million visual impressions from U.S. customers.”).

4. Factor Four: Amount of Sales and Number of Customers

Applicant has not introduced evidence regarding its amount of sales, number of customers, market share or how its services rank in terms of sales by other providers of similar services, so we are unable “to accurately gauge” the level of Applicant’s success. *Target Brands v. Hughes*, 85 USPQ2d 1676, 1681 (TTAB 2007); *see also In re MK Diamond Prods., Inc.*, 2020 USPQ2d 10882, at *23 (TTAB 2020) (probative value of raw sales figures were diminished due to lack of industry context).

5. Factor Five: Intentional Copying

There is no evidence of third parties intentionally copying Applicant’s proposed mark.

6. Factor Six: Unsolicited Media Coverage of the Services Identified by the Proposed Mark

Applicant has not submitted evidence of unsolicited media coverage of the services identified by the proposed mark.

7. Conclusion: Acquired Distinctiveness

Based on a review of all of the evidence of record under the relevant factors, we find that Applicant has failed to demonstrate by a preponderance of the evidence that COOKIEBOT has acquired distinctiveness among relevant U.S. consumers as a source identifier for Applicant’s services. Because of the highly descriptive nature of the proposed mark for Applicant’s services, Applicant’s substantially exclusive use of

COOKIEBOT does not carry sufficient weight in the context of Applicant's evidentiary showing.

V. Decision

On the record before us, the proposed mark COOKIEBOT is generic for Applicant's services. Accordingly, we affirm the refusal to register the mark under Sections 1, 2, 3 and 45 of the Trademark Act on the Principal Register and Section 23(c) on the Supplemental Register.

We further find that COOKIEBOT is highly descriptive of Applicant's services and Applicant has not established that the designation has acquired distinctiveness as a mark for Applicant's services. Accordingly, we affirm the refusal to register Applicant's mark on the Principal Register under Section 2(e)(1) and Section 2(f) of the Trademark Act.

Excerpts from Evidentiary Appendix¹⁴

Applicant's Specimen of Use

¹⁴ Where Applicant or the Examining Attorney has introduced duplicate evidence, we cite to the first submission.

The screenshot shows the Cookiebot management dashboard for a domain group. The browser address bar displays 'manage.cookiebot.com'. The page header includes the Cookiebot logo, language selection ('English'), and links for 'Log off', 'My account', and 'Upgrade to Premium Subscription'. A navigation menu contains 'Settings', 'Cookies', 'User consents', and 'Reports'. The main content area is titled 'Domain Group: Domain Group #1' and includes a vertical sidebar with icons for 'SAVE', 'UNDO CHANGES', and two 'PREVIEW' options. The main panel contains instructions on how to configure and preview settings, followed by tabs for 'Domains', 'Dialog', 'Declaration', 'Content', and 'Your scripts'. The 'Your scripts' tab is active, showing the 'Domain Group ID' (0177b09c-82d6-4418-a7a6-...), an API key with 'Show - Renew' options, and a 'Cookie-blocking mode' set to 'Manual'. It provides instructions on manual implementation and includes two code blocks for JavaScript scripts to be inserted into the website header and HTML.

Domain Group: Domain Group #1

Here you can configure and preview your own cookie declaration and consent dialog. Click the checkmark icon to save and activate your settings. Click the 'undo' icon to revert to the latest saved version. Click the 'preview' icons to see how the declaration and dialog looks in your own configuration.

SAVE

UNDO CHANGES

PREVIEW

PREVIEW

Domains | Dialog | Declaration | Content | Your scripts

Domain Group ID: 0177b09c-82d6-4418-a7a6-██████████

API key: [Show](#) - [Renew](#)

Cookie-blocking mode: Auto Manual

Please see our [guide on manual implementation](#) for how to manually mark up cookie-setting scripts and correctly implement Cookiebot on your website.

Copy this script and insert it to the header of your website template to enable the consent banner.

```
<script id="Cookiebot" src="https://consent.cookiebot.com/uc.js" data-cbid="0177b09c-82d6-4418-a7a6-██████████" type="text/javascript" async></script>
```

Copy this script and insert it in the HTML on the specific page and at **the exact position** where you would like the Cookie Declaration to appear.

```
<script id="CookieDeclaration" src="https://consent.cookiebot.com/0177b09c-82d6-4418-a7a6-██████████/cd.js" type="text/javascript" async></script>
```

Additional resources are available in our [SDK guide](#) and our [help center](#).

Examining Attorney's evidence includes:

Submitted with October 22, 2020 Office Action:¹⁵

cook·ie also **cook·y**  (kōok'ē)

Share:  [Tweet](#)

n. pl. **cook·ies**

1. A small, usually flat and crisp cake made from sweetened dough.
2. *Slang* A person, usually of a specified kind: *a lawyer who was a tough cookie.*
3. *Computers* A collection of information, usually including a username and the current date and time, stored on the local computer of a person using the World Wide Web, used chiefly by websites to identify users who have previously registered or visited the site.

[Dutch *koekje*, diminutive of *koek*, cake, from Middle Dutch *koeke*; akin to German *Kuchen* and Old Norse *kaka*, cake.]

The American Heritage® Dictionary of the English Language, Fifth Edition copyright ©2020 by Houghton Mifflin Harcourt Publishing Company. All rights reserved.

cookie noun



Save Word

cook·ie | \ 'kū-kē  \

variants: or **cooky**

plural **cookies**

Definition of *cookie*

1 : a small flat or slightly raised cake

2 a : an attractive woman

// a buxom French *cookie* who haunts the ... colony's one night spot

— *Newsweek*

b : PERSON, GUY

// a tough *cookie*

3 **cookie** : a small file or part of a file stored on a World Wide Web user's computer, created and subsequently read by a website server, and containing personal information (such as a user identification code, customized preferences, or a record of pages visited)

HTTP cookie

From Wikipedia, the free encyclopedia
(Redirected from Cookie (computing))

For other uses, see Cookie (disambiguation).

An **HTTP cookie** (also called **web cookie**, **Internet cookie**, **browser cookie**, or simply **cookie**) is a small piece of data stored on the user's computer by the web browser while browsing a website. Cookies were designed to be a reliable mechanism for websites to remember stateful information (such as items added in the shopping cart in an online store) or to record the user's browsing activity (including clicking particular buttons, logging in, or recording which pages were visited in the past). They can also be used to remember pieces of information that the user previously entered into form fields, such as names, addresses, passwords, and payment card numbers.

Cookies perform essential functions in the modern web. Perhaps most importantly, **authentication cookies** are the most common method used by web servers to know whether the user is logged in or not, and which account they are logged in with. Without such a mechanism, the site would not know whether to send a page containing sensitive information, or require the user to authenticate themselves by logging in. The security of an authentication cookie generally depends on the security of the issuing website and the user's web browser, and on whether the cookie data is encrypted. Security vulnerabilities may allow a cookie's data to be read by a hacker, used to gain access to user data, or used to gain access (with the user's credentials) to the website to which the cookie belongs (see *cross-site scripting* and *cross-site request forgery* for examples).^[1]

Tracking cookies, and especially third-party tracking cookies, are commonly used as ways to compile long-term records of individuals' browsing histories — a potential privacy concern that prompted European^[2] and U.S. lawmakers to take action in 2011.^{[3][4]} European law requires that all websites targeting European Union member states gain "informed consent" from users before storing non-essential cookies on their device.

Google Project Zero researcher Jann Horn describes ways cookies can be read by intermediaries, like Wi-Fi hotspot providers. He recommends to use the browser in incognito mode in such circumstances.^[5]



HOME	DICTIONARY	BY CATEGORY	WORD OF THE DAY	ADD/EDIT	TIPS	TOP 50	SHOP
------	------------	-------------	-----------------	----------	------	--------	------

bookmark
Boolean or Boolean logic
boomerang child
boomeranger
boost
boot
booth bunny
bootloader
boots
booya
bop
bot
BOTEC

bot

short for: robot, a.k.a. autobot, badbot, chatbot, goodbot, infobot, knowbot, mailbot, shopping bot, softbot, crawler, transactional bot, informational bot, monitoring bot, backlink check bot, Twitterbot

A bot is a program that runs on a computer [24/7](#), automating mundane tasks for the owner, even if the owner is not [\[\[login or log in|logged in\]\]](#). Bots are also used on the [Internet](#) in a variety of ways, for example on [search engines](#).

[Search engine](#) bots, also called [spiders](#) and [crawlers](#), explore the [World Wide Web](#). For example, they retrieve [Web pages](#) and follow all of the [hyperlinks](#) within each. Once they have that information, they generate catalogs that can be [accessed](#) by search engines. Popular search sites, such as Google use this kind of automated method along with their own proprietary [algorithms](#) to generate their uniquely accurate search results. [Webmasters](#) are encouraged to understand the peculiarities of each search engine's bot so that they can design pages for retrieval by specific [keywords](#). Social networks, such as Twitter, use bots too.

Another online example is "shopping bots," accessible through a Web site's [proprietary](#) technology, these bots search the Web for the cheapest prices of products (such as clothing). There's also "gaming bots" and "mailbots" and much more. It's now broken down into "good bots" and "bad bots":

Good Bots:

- Chatbots
- Crawlers
- Transactional bots
- Informational bots
- Entertainment / Art bots
- Game / Poker bots
- Monitoring bots
- Backlink checker bots
- Social Network bots
- Partner bots
- Aggregator / feedfetcher bots

Bad Bots:

- Hackers
- Spammers
- Scrapers
- Impersonators
- Scalpers
- Spam bots



Contents

Help

Random

Search

bot

<networking, chat, web>

1. (From "robot") Any type of autonomous software that operates as an agent for a user or a program or simulates a human activity.

On the [Internet](#), the most popular bots are programs (called [spiders](#) or [crawlers](#)) used for searching. They access [web sites](#), retrieve documents and follow all the [hypertext links](#) in them; then they generate catalogs that are accessed by [search engines](#).

A [chatbot](#) converses with humans (or other bots). A [shopbot](#) searches the Web to find the best price for a product. Other bots (such as [OpenSesame](#)) observe a user's patterns in navigating a website and customises the site for that user.

A [knowbot](#) collects specific information from [websites](#).

<security>

2. A computer that has been conscripted into a [botnet](#).

Internet bot

From Wikipedia, the free encyclopedia

For other uses, see [Automated bot](#).

For bot operation on Wikipedia, see [Wikipedia:Bots](#).



This article has multiple issues. Please help [improve it](#) or discuss these issues on the [talk page](#). (*Learn how and when to remove these template messages*)

[\[hide\]](#)

- This article **needs additional citations for verification**. (*September 2020*)
- This article **does not follow Wikipedia's guidelines on the use of different tenses**. (*June 2020*)

An **Internet bot**, **web robot**, **robot** or simply **bot**, is a [software application](#) that runs automated tasks (scripts) over the [Internet](#).^[1] Typically, bots perform tasks that are simple and repetitive, much faster than a person could. The most extensive use of bots is for [web crawling](#), in which an automated script fetches, analyzes and files information from web servers. More than half of all web traffic is generated by bots.^[2]

Efforts by [web servers](#) to restrict bots vary. Some servers have a [robots.txt](#) file which contains the rules governing bot behavior on that server. Any bot that does not follow the rules could, in theory, be denied access to, or removed from, the affected website. If the posted text file has no associated program/software/app, then adhering to the rules is entirely voluntary. There would be no way to enforce the rules, or to ensure that a bot's creator or implementer reads or acknowledges the robots.txt file. Some bots are "good" – e.g. [search engine spiders](#) – while others are used to launch malicious attacks, for example on political campaigns.^[2]

Submitted with April 30, 2021 Office Action¹⁶

End-User Cookies

If you are a Zendesk Subscriber and use Zendesk products to engage with your customers (we refer to our Subscribers' customers as "End-Users"), depending on the products and features you use and how you have configured them, Zendesk may place Cookies on End-User browsers during such interactions. To understand which specific Cookies are used in your implementation and how and why they are used, review the table below.

While only some of the Zendesk products include pre-built Cookie consent-management solutions, all non-essential End-User Cookies are capable of being controlled by a standard javascript **Cookie bot** that Subscribers can configure to their own standards. To learn more about implementing a **Cookie bot** within your help center, review the following article: <https://support.zendesk.com/hc/en-us/articles/360054053353>

Definitions for the Services identified below can be found in the Service-Specific Supplemental Terms here: <https://support.zendesk.com/hc/en-us/articles/360047508453-Supplemental-terms-Zendesk-s-service-specific-terms>. For reference, such definitions are as follows:

¹⁶ At TSDR 5-15.

Web Widget	ZD-zE_oauth	Essential	Stores the authentication token once the user has been authenticated.	2 hours
			Web Widget offers pre-built API functionality for cookie consent; see here: Web Widget Cookie Permission in Developer Center	
			Alternatively, these Cookies respect external cookie bot functionality as well.	

 **Cookie Script** Like 2.5K PRICING FEATURES ▾

Do you know if your favorite websites are tracking you with cookies? If you answered in the negative, you might want to try a **cookie bot**. **Cookie bots** are essentially code-scanning web applets (mini-applications) that sift through lines of HTML code to gain insights into what cookies are used by the websites you visit. The bots record the details and present the findings in a digested format.

Cookie Script makes it easy. Just type in any web URL on the cookie-script.com home page and our cookie scanner bot will get to work. If you've forgotten what cookies are all about, don't worry; we've put together a primer for casual web users and this information is detailed down below.

What is a **Cookie bot**?

what they are agreeing to in the consent disclosure. For these reasons, you might want to try Cookie Script's [free cookie bot tool](#), so you know exactly what type of cookies are being used by the websites you visit. This tool is free to use and is available on the Cookie Script home page.

Why You Should Run a Cookie Bot

A [cookie bot](#) tool allows you to see what types of cookies a website stores and tracks on your computer. (Not to mention, how they might be using your data.) The tool is super-easy to use, too.

How it works. To scan a website for cookies, simply enter its URL (website address) into the search bar on [cookie-script.com](#). Click "CHECK MY WEBSITE" and our [cookie bot](#) will scan the website to determine which types of cookies are in use by the website's owners. Once the scan is complete a report will be generated. The wait time to generate results is anywhere from a few seconds to a few minutes, based on your connection speed and size of the website.

- **First- and third-party cookies.** Cookie Script's [cookie bot](#) reports include details on whether cookies are originating from a first-party or third-party interest. First-party cookies are usually used for the sole purpose of functionality and website customization. Third-party cookies, on the other hand, are primarily used by advertisers to send you targeted ads as you browse the internet.

How Running a Cookie Bot Can Help You

A [cookie bot](#) tool allows you to see what types of cookies a website stores and tracks on your computer. By running a [cookie bot](#) from [cookie-script.com](#), you can see exactly what types of cookies a website may download onto your device.

These days, there are many people that blindly click the cookies "Opt-In" button on websites. Equally worrying is the complexity of cookie notices on websites; the average web user likely has no concept what amount of privacy they are giving up in order to use certain websites. Simply put, a [cookie bot](#) or "cookie checker" is an essential tool that allows you to keep your online privacy intact.

Submitted with the November 5, 2021 Office Action¹⁷

How do cookies affect my business?

On 25th May 2011, the Privacy and Electronic Communications Regulations (2011) were introduced to comply with rules set by the EU in 2009 regarding cookies and storing data. The exact rules can be found below:

“6. – (1) Subject to paragraph (4), a person shall not store or gain information, or to gain access to information stored, in the terminal equipment of a subscriber or user unless the requirements of paragraph (2) are met. (2) The requirements are that the subscriber or user of that terminal equipment- (a) is provided with clear and comprehensive information about the purposes of the storage of, or access to, that information; and (b) has given his or her consent. (3) Where an electronic communications network is used by the same person to store or access information in the terminal equipment of a subscriber or user on more than one occasion, it is sufficient for the purposes of this regulation that the requirements of paragraph (2) are met in respect of the initial use. (3A) For the purposes of paragraph (2), consent may be signified by a subscriber who amends or sets controls on the internet browser which the subscriber uses or by using another application or programme to signify consent. (4) Paragraph (1) shall not apply to the technical storage of, or access to, information – (a) for the sole purpose of carrying out the transmission of a communication over an electronic communications network; or (b) where such storage or access is strictly necessary for the provision of an information society service requested by the subscriber or user.”

To summarise, this law means that the user has to give their consent for cookies to be used on a website, and they must be able to see exactly what will be stored and how it will be used. This means that you must use a cookie bot to ensure that you are complying with the law, and have a section in your privacy policy to explain how cookies are used on your website.

We add cookie bots to our websites to ensure that they comply with laws and legislations. The cookie bots are built into our sites, and included in our website care plans. This reduces the stress of GDPR breaches on your side, meaning you can focus on generating business and providing an excellent service.

DURING THIS WEB CLINIC, OUR SENIOR SEO STRATEGIST, REBECCA BERIN, COVERS:

- 👍 Common effects of GDPR and your cookie bot on your analytics.
- 👍 How to adjust your analysis, reporting, and strategy with gaps in analytics.
- 👍 Best practices you need to implement to stay ahead of the game.

¹⁷ At TSDR 7-17.

5. Cookies

We use cookies on the Website. We do this in accordance with the GDPR. In particular, we must inform you about certain cookies and also ask permission to use them. We satisfy these requirements through a 'cookie bot'.

6. Sharing your Personal Data with third parties

In several cases, we need to share the Personal Data which we process from you with third parties. This pertains to the following situations:

1. in providing our services and delivering our products, for instance, if you opt for the recipient (a third party) to know from whom the gift came or if you use your own Unique Star Page (which may be made public on the Website);
2. to fulfil the legal obligations which we have, such as notification to the Dutch Data Protection Authority [*Autoriteit Persoonsgegevens*] (a third party);
3. in engaging external suppliers (third parties), for example, our ICT supplier and hosting party.

Cookie policy

Just like other websites, we make use of cookies on ours. These cookies enable our websites or platforms to function correctly or measure how visitors like you use them. Our **cookie bot** is also very convenient to help you make your choices. For more information on our cookie policy, please read the full text.

[>> Read more in our cookie policy](#)

Applicant's evidence includes:

Submitted with April 19, 2021 Response to Office Action¹⁸

Similar Categories ⓘ

- Cookie and Website Tracker Scanning >
- Data Breach Notification >
- Data De-identification and Pseudonymity >
- Data Privacy Management >
- Data Subject Access Request (DSAR) >
- Identity Verification >
- Other Privacy >
- Privacy Impact Assessment (PIA) >



Consent Management Platform (CMP) reviews by real, verified users. Find unbiased ratings on user satisfaction, features, and price based on the most reviews available anywhere.

Best Consent Management Platform (CMP) Software

Consent management platform (CMP) software is used by companies to legally document and manage a user's consent choices prior to collecting, sharing, or selling user data from online sources such as websites and apps that use cookies, embedded videos, and other tracking technologies.

CMP tools provide end users with detailed information on how their online behavior may be tracked, the purposes for which that information is collected, and the specific vendors and entities requesting to use the

[Show More](#) ▾

Top 8 Consent Management Platform (CMP) Software ⓘ

Quantcast Choice | Usercentrics | OneTrust | Osano | Secure Privacy | DataGrail | Ketch | TrustArc

Compare Consent Management Platform (CMP) Software

G2 takes pride in showing unbiased reviews on user satisfaction in our ratings and reports. We do not allow paid placements in any of our ratings, rankings, or reports. Learn about our [scoring methodologies](#).

What Is a Consent Management Platform?



By Kaya Ismail | Mar 14, 2019

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2,690 followers

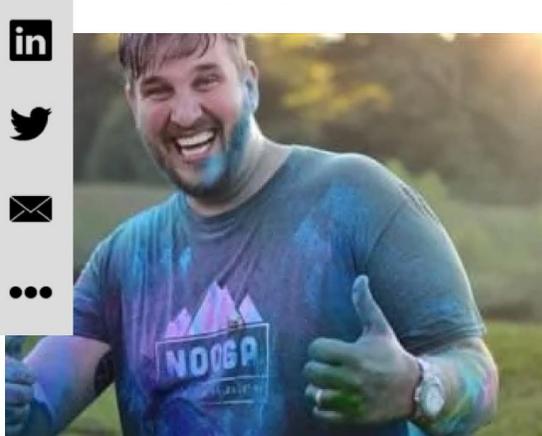


PHOTO: CHRISTIAN BOWEN

The General Data Protection Regulation ([GDPR](#)) has been in effect for almost a year, and as you might imagine, companies have started taking consumer consent far more seriously with regards to data collection, storage and usage. For smaller sites and businesses, habits needed tweaking. For larger sites with high volumes of traffic, a more methodical approach was required to remain GDPR compliant. That's where a consent management system comes in handy.

What Is a Consent Management (CMP) Platform?

Consent management refers to a process that allows a website to meet GDPR regulation by obtaining user consent for collecting their data through cookies during their visit. A consent management platform (CMP) enables brands to automate their consent management process, making it easier to be GDPR compliant.

Steve Pritchard, managing director of [It Works Media](#), explained how a CMP works in the case of a corporate website. "A CMP is used to inform visitors about the types of data they'll collect and what they will use it for. They store visitor consent data and deal with visitor's requests to make alterations about the data the website has collected about them,

Submitted with October 29, 2021 Request for Reconsideration¹⁹

cookie

 [kook-ee] [SHOW IPA](#)  

[See synonyms for cookie on Thesaurus.com](#)

 Elementary Level

noun, plural **cook·ies**

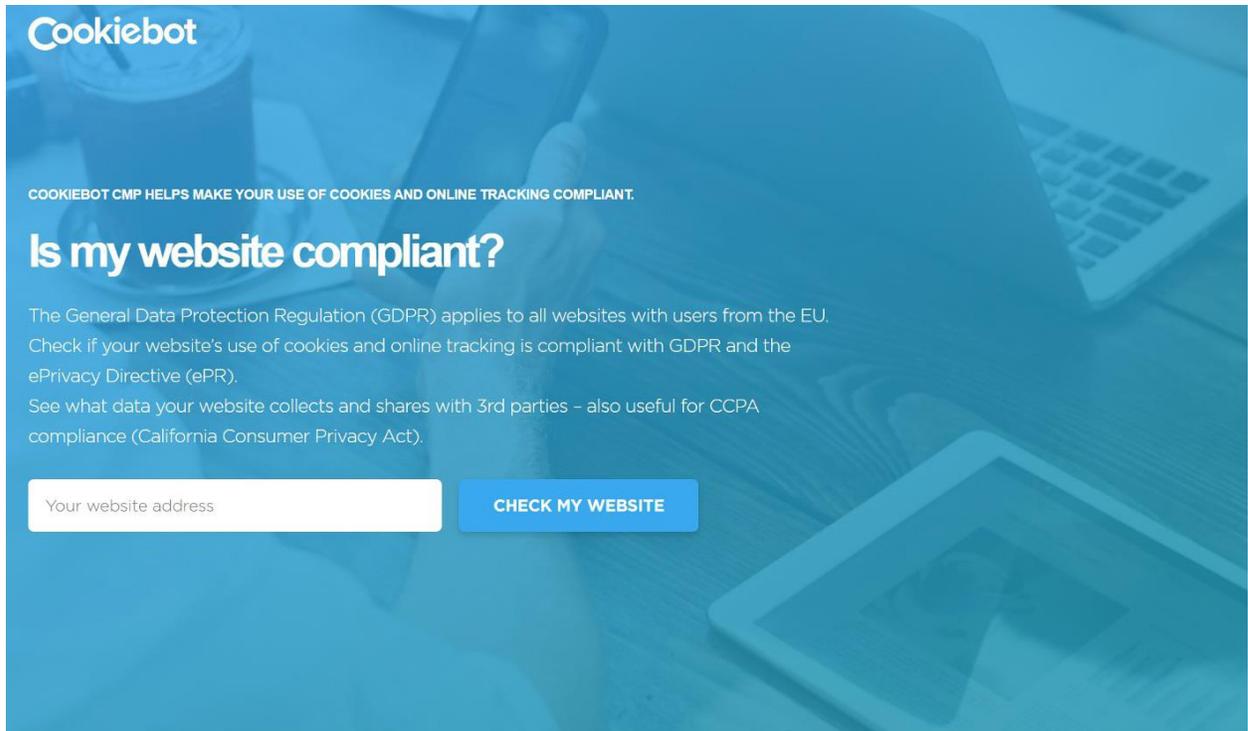
- 1 a small, usually round and flat cake, the size of an individual portion, made from stiff, sweetened dough, and baked.
- 2 *Informal.* dear; sweetheart (a term of address, usually connoting affection).
- 3 *Slang.*
 - a a person, usually of a specified character or type:
a smart cookie; a tough cookie.
 - b an alluring young woman.
- 4 Also called **http cook·ie, brows·er cook·ie**. *Digital Technology.* a file or segment of data that identifies a unique user over time and across interactions with a website, sent by the web server through a browser, stored on a user's hard drive, and sent back to the server each time the browser requests a web page:
Your browser will run more efficiently after you clear the cache and cookies.
- 5 *South Atlantic States (chiefly North Carolina).* a doughnut.

[SEE MORE](#)

verb (used with object), **cook·ied,cook·ie·ing** or **cook·y·ing**.

- 7 *Digital Technology.* to assign a cookie or cookies to (a website user):
I'm not really comfortable being cooked all the time.

¹⁹ At TSDR 5-14.



Cookiebot

COOKIEBOT CMP HELPS MAKE YOUR USE OF COOKIES AND ONLINE TRACKING COMPLIANT.

Is my website compliant?

The General Data Protection Regulation (GDPR) applies to all websites with users from the EU. Check if your website's use of cookies and online tracking is compliant with GDPR and the ePrivacy Directive (ePR). See what data your website collects and shares with 3rd parties – also useful for CCPA compliance (California Consumer Privacy Act).

Your website address

CHECK MY WEBSITE

FEATURED IN

FINANCIAL TIMES

BBC

Bloomberg

Forbes

TC TechCrunch

PROTECTING PRIVACY

The Internet has changed. Today, a trillion-dollar data economy is driving user data harvesting at an unprecedented scale.

Cookiebot consent management platform (CMP) provides transparency and control over all the cookies and similar tracking on your website.

Build trust with your website users while living up to current data protection legislations and avoid potential non-compliance fines.

Compliance made easy

Protecting privacy needs to be an integrated part of each individual website.

Cookiebot CMP brings this vision to life with three, fully automatic core functions that are easy to implement: cookie consent, cookie monitoring and cookie control.

Cookiebot CMP enables true compliance with privacy legislations through respectful and transparent data exchange, based on consent between end-users and the websites they visit.

New cookie banners from Cookiebot CMP | Easiest end-user consent online | Automatic compliance

A brand-new generation of cookie banners from Cookiebot consent management platform (CMP) is here to make end-user consent on your website easier and more flexible than ever before. Modern, customizable and built for optimized usability and higher conversion rates, the new cookie banners from Cookiebot CMP fits any website and offers you automatic compliance with all major data privacy laws in the world. Balance data privacy and data-driven business on your website with the next generation of cookie consent banner from Cookiebot CMP.

Cookiebot CMP Widget | Faster and easier cookie consent for your website

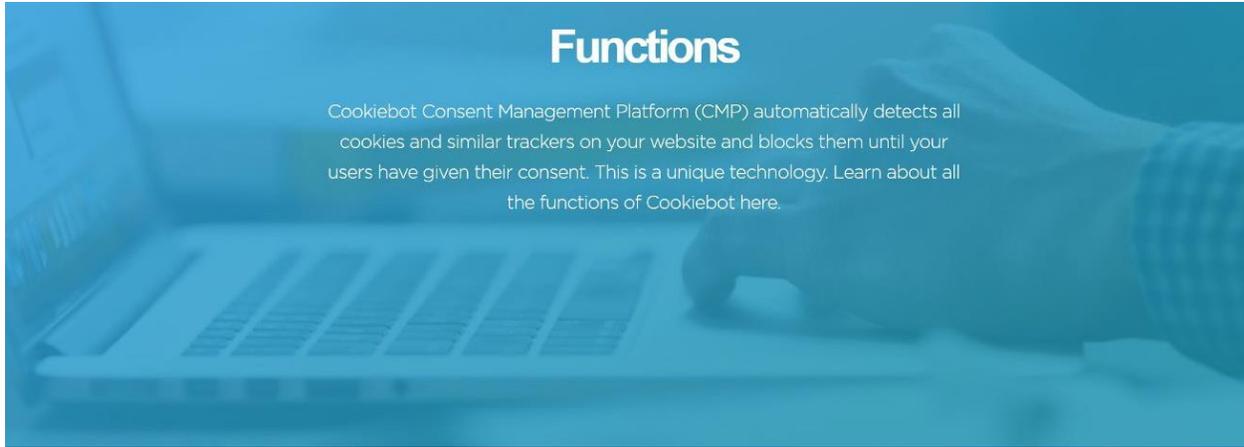
Cookiebot consent management platform (CMP) comes with a widget for your website that makes the end-user consent interaction faster and more responsive than ever before. Following the new generation of cookie banners from Cookiebot CMP, the widget works as a design and functionality extension that integrates with most websites to make cookie consent easier for the user and the balance between data-driven business and data privacy more effortless for you, the website owner/operator. In this blogpost, learn more about the Cookiebot CMP widget and how it makes compliance with a key requirement of the EU's GDPR effortless on your website.

Cookie consent | Automatic cookie consent with Cookiebot CMP | Build trust with your end-users

Cookie consent is crucial to get right on your website – strict data laws apply to the use of website cookies and consumer demand for online privacy is increasing. Building trust with your website's visitors is crucial for brand reputation. Cookiebot consent management platform (CMP) provides your website with a fully automatic cookie consent solution that includes industry-leading scanning technology and seamless integration with Google Consent Mode to help you balance data privacy with data-driven business on your domain. In this blogpost, learn more about cookie consent and how Cookiebot CMP solves the EU's GDPR cookie consent requirements for your website.

— [LEARN MORE](#)

Make your website's use of cookies and online tracking compliant today



Core functionality



Automated cookie scan and declaration

Once a month Cookiebot CMP will perform an automated cookie audit by scanning your website for cookies (HTTP/Javascript cookies, HTML5 Local Storage, Flash Local Shared Object, Silverlight Isolated Storage, IndexedDB, ultrasound beacons, pixel tags) and generate a cookie declaration with descriptions on every cookie found on your website.

The declaration is available to your website users as part of the consent dialog's details pane and as a separate cookie report.

The cookie report can be published in full on any of your subpages, e.g. as part of your privacy policy, by simply including a javascript-code in the specific page. The declaration also shows the user's current consent state and offers the user the statutory option of changing or withdrawing a consent.

Monitor your cookies by registering one or more subscribers to receive a monthly scan report by e-mail with information on e.g. new and removed cookies.



Cookie consent banner and widget

Cookiebot CMP displays a user friendly, no-nonsense interface the first time a user visits your website - no matter what page the user first lands on. The highly customizable consent interface informs your website's visitors about the use of cookies and asks for consent to set cookies on their web browser, all with minimum impact on the overall user experience.

Cookiebot CMP also comes with a widget for your website that makes the end-user consent interaction more responsive. The widget is a small, weightless element that hovers on a customizable position on your website and enables visitors to change or withdraw their consent state faster and easier, bringing flexibility and simplicity to an area that users often find tiresome and complicated.

Cookiebot CMP remembers the user's choice for 12 months after which the banner will automatically pop up to renew the user's consent. If you operate websites in multiple countries, you can set up a configuration for each country.

All user consents are automatically logged in an anonymized form and using an encrypted key. No Data Processing Agreement (GDPR) is needed. The consent log can be downloaded from the Manager and used for documentation.

The consent mechanism can be configured to comply with current regulations in all EU Member States. If you operate websites in multiple countries, you can set up a configuration for each country.

Cookie Control & JavaScript SDK

With Cookiebot CMP you are in full control of which cookies are set on your website. Instead of leaving it up to your website visitors to opt-in or opt-out at up to several hundred third party cookie providers, Cookiebot CMP offers your visitors a simple, general choice on four types of cookies across all cookie providers.

Cookiebot CMP offers full support of the required prior consent so that only strictly necessary cookies are set before the user consents. **Cookiebot CMP can automatically block all first-party and third-party cookies and trackers on your website.** Alternatively, you can manually mark up scripts to be held back until the user has consented.

Cookiebot CMP exposes a JavaScript object with a number of public properties, methods, events and callback functions that you can use in your website's front-end code to activate scripts individually based on the current user's consent state.

The consent state is stored on the user's browser as a persistent cookie with a JSON-formatted value that can also be read server side to evaluate the user's consent before setting cookies.

In the Cookie Manager you can see on which URL a cookie was first discovered which makes it easy for you to identify the scripts setting cookies.

Cookie repository

Cookiebot CMP maintains a global cookie repository with descriptions of the purpose of commonly used third party cookies.

When Cookiebot CMP identifies a known cookie on your website it uses the information from the knowledge base to describe the purpose of the cookie to your website visitors.

From the global repository Cookiebot CMP creates a local repository after the first scan of your website.

In the local repository you can change any applied description and set purpose descriptions on all cookies identified by the scanner.

On subsequent scans Cookiebot CMP reuses information from the local repository to describe both first and third party cookies.